

1 SHILPI AGARWAL (SBN 270749)
2 AVRAM D. FREY (MJP 804789) (Admitted *Pro Hac Vice*)
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11 *Attorneys for Plaintiffs*

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

JOSHUA SIMON, DAVID BARBER, and JOSUE
BONILLA, individually and on behalf of all others
similarly situated, DIANA BLOCK, an individual,
and COMMUNITY RESOURCE INITIATIVE, an
organization,

Plaintiffs,

v.

CITY AND COUNTY OF SAN FRANCISCO, PAUL
MIYAMOTO, in his official capacity as San
Francisco Sheriff,

Defendants.

) CASE NO: 4:22-cv-05541-JST
) (San Francisco Superior Court
) Case No: CGC-22-601686)
)
) **CLASS ACTION**
)
) **DECLARATION OF SHILPI
AGARWAL IN SUPPORT OF
MOTION FOR CLASS
CERTIFICATION**
) Date: January 19, 2023
) Time: 2:00 p.m.
) Place: Courtroom 6
) Judge: Hon. Jon S. Tigar
)
) Complaint Filed: September 8, 2022
) Removal Filed: September 28, 2022
)
) TRIAL DATE: None set
)
) **CLASS ACTION**
)
) DEMAND FOR JURY TRIAL
)

1 I, Shilpi Agarwal, declare as follows:

2 1. I am an attorney admitted to practice in California. I am the Legal Director at the
3 American Civil Liberties Union Foundation of Northern California (“ACLU NorCal”), counsel
4 for Plaintiffs in the above-captioned matter. I submit this declaration in support of Plaintiffs’
5 Motion to Certify Class, Appoint Class Representatives, and Appoint Class Counsel. I have
6 personal knowledge of the facts stated herein.

7 2. ACLU NorCal is a non-profit organization that is tax exempt under § 501(c)(3)
8 of the Internal Revenue Code. It is a nonpartisan organization dedicated to defending the civil
9 liberties and civil rights guaranteed by the federal and state constitutions. ACLU NorCal does
10 not receive government funding. ACLU NorCal litigates civil rights cases, frequently in
11 conjunction with private counsel, combining our expertise in civil rights and impact litigation
12 with the resources and experience of the private bar.

13 3. I have been an active member of the State Bar of California since 2010. I
14 received a J.D. from Columbia Law School and a B.A. in Political Science as well as
15 Economics from Stanford University. Before joining ACLU NorCal, I was an Assistant Federal
16 Public Defender in San Francisco, where I presented argument on release conditions in
17 countless cases. Prior to that, I was an associate at Keker & Van Nest (now, Keker, Van Nest &
18 Peters). During my career, I have focused on complex civil and criminal litigation.

19 4. I have held my current position with ACLU NorCal since September 2019. In
20 this role, among other things, I provide strategic vision that shapes ACLU NorCal's overall
21 litigation docket and provide direct support to litigation teams. While I have been Legal
22 Director, and previously when I was a Senior Staff Attorney from 2018–19, ACLU NorCal has
23 brought a number of federal and state class actions seeking to vindicate our clients' rights. An
24 attorney from ACLU NorCal was appointed to serve as lead or co-lead counsel for certified
25 classes in each of the following cases:

²⁶ a. *Zepeda Rivas v. Jennings*, No. 3:20-cv-02731 (N.D. Cal., filed Mar. 20,

²⁷ 2020): settlement class certified in action brought by immigration detainees

1 challenging the conditions of their confinement during the COVID-19
2 pandemic;

3 b. *Criswell v. Boudreaux*, No. 1:20-cv-00535 (E.D. Cal., filed July 29, 2020):
4 provisional class and then settlement class certified in action brought against
5 Sheriff of Tulare County challenging jail conditions during the COVID-19
6 pandemic; and
7 c. *Gonzalez v. Sessions*, No. 18-cv-01869 (N.D. Cal., filed Mar. 27, 2018),
8 *aff'd* 955 F.3d 762 (9th Cir. 2020), *rev'd* 142 S. Ct. 2057 (2022): class
9 certified in action brought by immigration detainees held for more than 180
10 days without receiving bond hearing before immigration judge.

11 5. The following cases are also representative of my work on behalf of plaintiffs:

12 a. *Mathieu v. City of Oakland*, No. 4:18-cv-05742 (N.D. Cal., filed Sept. 19,
13 2018): challenge to Oakland loitering ordinance used to over-police and
14 harass public housing residents, ultimately leading to repeal of ordinance;
15 b. *Senior & Disability Action v. Padilla*, No. CPF-18-516265 (San Francisco
16 Sup. Ct., filed July 24, 2018): challenge to Secretary of State's failure to
17 designate certain public assistance and disability services offices as Voter
18 Registration Offices under the National Voter Registration Act, resulting in
19 California becoming first state to offer voter registration services to students
20 applying for state-sponsored financial aid; and
21 c. *Masters v. Cal. Dep't of Corr.*, No. CIV-1800580 (Marin Sup. Ct., filed Feb.
22 16, 2018): challenge under Administrative Procedures Act to California
23 Department of Corrections' 2018 lethal injection protocol, for which
24 demurrer was denied, ultimately resulting in Governor issuing moratorium
25 repealing challenged lethal injection protocols.

26 6. Other members of ACLU NorCal who are representing Plaintiffs and the

27 proposed class in this litigation are Avram Frey, Emi Young, and Hannah Kieschnick, all of

1 whom have deep experience representing plaintiffs in civil rights cases. And all three are
2 members in good standing of the California State Bar and of the Bar of this Court.

3 7. Mr. Frey is the Deputy Director of the Criminal Justice Program at ACLU
4 NorCal. He graduated from the New York University School of Law in 2008 and has worked at
5 ACLU NorCal since 2021. Previously, he worked with the National Security Project at the
6 ACLU National office in New York; was the Litigation Director at the Lone Star Justice
7 Alliance in Austin, Texas; litigated a multitude of civil rights and constitutional issues at
8 Gibbons PC in Newark, New Jersey; and was an Assistant Post-Conviction Defender in
9 Nashville, Tennessee.

10 8. Ms. Young graduated from Stanford Law School in 2016 and has worked as a
11 staff attorney at ACLU NorCal since 2021. Previously, she worked as a deputy public defender
12 at the Contra Costa Public Defender Office, where she litigated nearly thirty jury trials and
13 assisted numerous other clients in winning dismissals or reduction of charges.

14 9. Ms. Kieschnick graduated from Stanford Law School in 2017 and has worked as
15 a staff attorney at ACLU NorCal since 2021. Previously, she worked as a deputy county
16 counsel and social justice and impact litigation fellow at the Santa Clara County Counsel's
17 Office. She also served as a law clerk on the U.S. Court of Appeals for the Ninth Circuit and
18 the U.S. District Court for the District of Columbia.

19 10. I am not aware of any conflict among potential class members in this case.

20 11. I am not aware of any conflict between ACLU NorCal and any members of the
21 potential class that would prevent ACLU NorCal from representing the class.

23 I declare under penalty of perjury that the foregoing is true and correct. Executed this
24 28th day of October, 2022, in San Francisco, California.

Elton James

Shilpi Agarwal (SBN 270749)

1 **ATTESTATION PURSUANT TO CIVIL LOCAL RULE 5-1(i)(3)**

2 I, Justina K. Sessions, am the ECF User whose identification and password are being
3 used to file this document. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that all
4 signatories have concurred in this filing.

5
6 Dated: October 28, 2022

/s/ Justina K. Sessions

7 Justina K. Sessions

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